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6 **BEFORE THE**
7 **BOARD OF REGISTERED NURSING**
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2012-372

11 **H. ABIOLA OBILEYE AKA HELEN**
12 **ABIOLA OBILEYE; HELEN BIOLA**
13 **AKAN; HELEN ABIOLA OBILEYE; H.**
14 **BIOLA OBILEYE**
15 **820 E. Shamrock Street**
16 **Rialto, CA 92376**
17 **Registered Nursing License No. 428984**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

18 Respondent.

19 **FINDINGS OF FACT**

20 1. On or about December 15, 2011, Complainant Louise R. Bailey, M.Ed., RN, in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, filed Accusation
22 No. 2012-372 against H. Abiola Obileye aka Helen Abiola Obileye; Helen Biola Akan; Helen
23 Abiola Obileye; H. Biola Obileye (Respondent) before the Department of Consumer Affairs.
(Accusation attached as Exhibit A.)

24 2. On or about August 8, 1988, the Board of Registered Nursing (Board) issued
25 Registered Nursing License No. 428984 to Respondent. The Registered Nursing License was in
26 full force and effect at all times relevant to the charges brought in Accusation No. 2012-372 and
27 will expire on May 31, 2012, unless renewed.

1 3. On or about December 15, 2011, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 2012-372, Statement to Respondent, Notice of Defense,
3 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
4 and 11507.7) at Respondent's address of record which, pursuant to California Code of
5 Regulations, title 16, section 1409.1, is required to be reported and maintained with the Board,
6 which was and is: 820 E. Shamrock Street Rialto, CA 92376.

7 4. Service of the Accusation was effective as a matter of law under the provisions of
8 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
9 124.

10 5. On or about December 28, 2011, the certified mail receipt for the aforementioned
11 documents was returned by the U.S. Postal Service and showed that the documents were
12 delivered and signed by Lekan Obileye.

13 6. Government Code section 11506 states, in pertinent part:

14 (c) The respondent shall be entitled to a hearing on the merits if the respondent
15 files a notice of defense, and the notice shall be deemed a specific denial of all parts
16 of the accusation not expressly admitted. Failure to file a notice of defense shall
constitute a waiver of respondent's right to a hearing, but the agency in its discretion
may nevertheless grant a hearing.

17 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
18 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 2012-
19 372.

20 8. California Government Code section 11520 states, in pertinent part:

21 (a) If the respondent either fails to file a notice of defense or to appear at the
22 hearing, the agency may take action based upon the respondent's express admissions
23 or upon other evidence and affidavits may be used as evidence without any notice to
respondent.

24 9. Pursuant to its authority under Government Code section 11520, the Board finds
25 Respondent is in default. The Board will take action without further hearing and, based on the
26 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
27 taking official notice of all the investigatory reports, exhibits and statements contained therein on
28 file at the Board's offices regarding the allegations contained in Accusation No. 2012-372, finds

1 that the charges and allegations in Accusation No. 2012-372, are separately and severally, found
2 to be true and correct by clear and convincing evidence.

3 10. Taking official notice of its own internal records, pursuant to Business and
4 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
5 and Enforcement are \$2,195 as of February 14, 2012.

6 DETERMINATION OF ISSUES

7 1. Based on the foregoing findings of fact, Respondent H. Abiola Obileye aka Helen
8 Abiola Obileye; Helen Biola Akan; Helen Abiola Obileye; H. Biola Obileye has subjected her
9 Registered Nursing License No. 428984 to discipline.

10 2. The agency has jurisdiction to adjudicate this case by default.

11 3. The Department of Consumer Affairs is authorized to revoke Respondent's
12 Registered Nursing License based upon the following violations alleged in the Accusation which
13 are supported by the evidence contained in the Default Decision Evidence Packet in this case.:

14 a. Business and Professions Code sections 490 and 2761, subdivisions (a) and (f)
15 (Criminal Conviction).

16 b. Business and Professions Code section 2761, subdivision (a) (Unprofessional
17 Conduct)

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1 ORDER

2 IT IS SO ORDERED that Registered Nursing License No. 428984, heretofore issued to
3 Respondent H. Abiola Obileye aka Helen Abiola Obileye; Helen Biola Akan; Helen Abiola
4 Obileye; H. Biola Obileye, is revoked.

5 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
6 written motion requesting that the Decision be vacated and stating the grounds relied on within
7 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
8 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

9 This Decision shall become effective on August 3, 2012.

10 It is so ORDERED July 5, 2012

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13 FOR THE BOARD OF REGISTERED NURSING
14 DEPARTMENT OF CONSUMER AFFAIRS

15 60719666.DOC
DOJ Matter ID:LA2011601098

16 Attachment:
17 Exhibit A: Accusation
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Exhibit A

Accusation

1 KAMALA D. HARRIS
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2 GREGORY J. SALUTE
Supervising Deputy Attorney General
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7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. **202-372**

12 **H. ABIOLA OBILEYE**
13 **AKA HELEN ABIOLA OBILEYE**
AKA HELEN BIOLA AKAN
14 **AKA HELEN ABIOLA OBILEYE**
AKA H. BIOLA OBILEYE
15 **820 E. Shamrock Street**
Rialto, CA 92376

ACCUSATION

16 **Registered Nursing License No. 428984**

17 Respondent.

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20 Complainant alleges:

21 **PARTIES**

22 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
23 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
24 Consumer Affairs.

25 2. On or about August 31, 1988, the Board of Registered Nursing (Board) issued
26 Registered Nursing License No. 428984 to Helen Biola Akan aka H. Abiola Obileye; aka
27 Helen Abiola Obileye; aka Helen Abiola Obileye; aka H. Biola Obileye (Respondent). The
28

1 Registered Nursing License was in full force and effect at all times relevant to the charges
2 brought herein and will expire on May 31, 2012, unless renewed.

3 **JURISDICTION**

4 3. This Accusation is brought before the Board, under the authority of the following
5 laws. All section references are to the Business and Professions Code unless otherwise indicated.

6 **STATUTORY PROVISIONS**

7 4. Section 490 states:

8 "(a) In addition to any other action that a board is permitted to take against a licensee, a
9 board may suspend or revoke a license on the ground that the licensee has been convicted of a
10 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
11 or profession for which the license was issued.

12 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
13 discipline a licensee for conviction of a crime that is independent of the authority granted under
14 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
15 of the business or profession for which the licensee's license was issued.

16 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
17 conviction following a plea of nolo contendere. Any action that a board is permitted to take
18 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
19 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
20 made suspending the imposition of sentence, irrespective of a subsequent order under the
21 provisions of Section 1203.4 of the Penal Code."

22 5. Section 2750 states:

23 "Every certificate holder or licensee, including licensees holding temporary licenses, or
24 licensees holding licenses placed in an inactive status, may be disciplined as provided in this
25 article [Article 3 of the Nursing Practice Act (Bus. & Prof Code, § 2700 et seq.)]. As used in this
26 article, "license" includes certificate, registration, or any other authorization to engage in practice
27 regulated by this chapter. The proceedings under this article shall be conducted in accordance
28 with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the

1 Government Code [the Administrative Procedure Act], and the board shall have all the powers
2 granted therein."

3 6. Section 2761 states:

4 "The board may take disciplinary action against a certified or licensed nurse or deny an
5 application for a certificate or license for any of the following:

6 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

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8 "(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
9 violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice
10 Act] or regulations adopted pursuant to it.

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12 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
13 functions, and duties of a registered nurse, in which event the record of the conviction shall be
14 conclusive evidence thereof."

15 7. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
16 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
17 licensee or to render a decision imposing discipline on the license.

18 REGULATORY PROVISIONS

19 8. California Code of Regulations, title 16, section 1444, states:

20 "A conviction or act shall be considered to be substantially related to the qualifications,
21 functions or duties of a registered nurse if to a substantial degree it evidences the present or
22 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
23 safety, or welfare. Such convictions or acts shall include but not be limited to the following:

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25 "(c) Theft, dishonesty, fraud, or deceit.

26 COST RECOVERY

27 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
28 administrative law judge to direct a licensee found to have committed a violation or violations of

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Criminal Conviction)**

5 10. Respondent is subject to disciplinary action under sections 490 and 2761,
6 subdivisions (a) and (f), in conjunction with California Code of Regulations, title 16, section
7 1444, in that Respondent was convicted of crimes substantially related to the qualifications,
8 functions or duties of a licensed registered nurse, as follows:

9 a. On or about September 27, 2010, Respondent pled guilty to two felony counts of
10 violating 18 U.S.C. section 1347, 2 [Health Care Fraud] in a criminal proceeding entitled
11 *USA v. Obileye*, U.S. District Court, Central District, Case No. CR-09-662-JFW. As a result of
12 the conviction, Respondent was remanded to the custody of the Bureau of Prisons for a period of
13 29 months. Upon release, Respondent will be placed on supervised probation for a term of 3
14 years with certain terms and conditions and ordered to pay restitution of \$1,031,158.14 to
15 Medicare.

16 b. The circumstances surrounding the conviction are that between July 7, 2006 through
17 May 21, 2009, Respondent as owner of a durable medical equipment supply company (Kobil
18 Medical Supply) submitted fraudulent Medicare claims totaling \$2, 312,315.00 which resulted in
19 Medicare payments of approximately \$1,189,781.67.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Unprofessional Conduct)**

22 11. Respondent is subject to disciplinary action under section 2761, subdivision (a), in
23 that she committed acts of unprofessional conduct as further described in paragraph no. 10.

24 **PRAYER**

25 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
26 and that following the hearing, the Board of Registered Nursing issue a decision:

27 1. Revoking or suspending Registered Nursing License No. 428984, issued to
28 Respondent;

